

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Applicant's election without traverse of Species B, as depicted by Figures 11-13 of the application, in the reply filed on October 24, 2005, is acknowledged.

Claims 1-10, 21, and 22 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter with applicant regards as the invention. Claim 1 has been amended to include the term "directed" as suggested by the Examiner. Claim 21 has been amended to remove the typographical error "being" in line 4. Additionally, claim 21 has been amended to provide antecedent basis for the term "top" in line 8.

Claims 21 and 22 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Huntington (Figs. 1 and 3). It is submitted that Huntington does not disclose every element of claim 21 and therefore does not anticipate claim 21. Specifically, Huntington does not disclose a second stream of water being directed along a bottom of a second member to a second portion of the evaporative media located farther away from the nozzle and air inlet side of the evaporative media than the first part of the top of the evaporative media as recited in claim 21. Rather, Huntington discloses a multiple compartment cross flow absorber with two weirs 27 and 28 with a plurality of notches defining upwardly extending members that do not direct a first stream of water downwardly but rather acts as a dam to control liquid and head and rate (see col. 2 lines 47-49) the level of water. Claim 22 has been canceled. Accordingly claim 21 is patentable over Huntington.

Claims 21 and 22 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Blatter (Figs. 1-4). It is submitted that Blatter does not disclose every element of claim 21 and therefore does not anticipate claim 21. Specifically, Blatter does not disclose a second stream of water being directed along a bottom of a second member to a second portion of the evaporative media located farther away from the nozzle and air inlet side of the evaporative media than the first part of the top of the evaporative media as recited in claim 21. Rather,

Blatter discloses a cap 28 that includes a number of openings that direct the water on top of a cover 16. Accordingly, claim 21 is patentable over Blatter.

Claim 11 is rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Harrison, Jr. (Figs. 1 and 2). Claim 11 has been canceled.

Claims 1-3, 11, 21, and 22 are rejected under 35 U.S.C. § 102(e) as being clearly anticipated by Permenter (Figs. 5-7; paragraphs [0030-0033, and 0036]). As discussed below claim 1 has been amended to include the limitations of claims 6. Claim 11 has been amended. With respect to claim 21, it is submitted that Permenter does not disclose a second stream of water being directed along a bottom of a second member to a second portion of the evaporative media located farther away from the nozzle and air inlet side of the evaporative media than the first part of the top of the evaporative media as recited in claim 21. Rather Permenter discloses a bonnet 52 having a teeth extending from the terminal ends of bonnet 52. The first and second set of teeth are equally spaced from spray bar 56. Accordingly, claim 21 is patentable over Permenter.

Claims 4 and 5 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Permenter. Claim 4 has been canceled. Claim 5 now depends from claim 1 which as noted above is in condition for allowance.

Claims 6-10 would be allowable if rewritten to overcome the rejections under 35 U.S.C. § 112, 2nd paragraph, set forth in this Office Action and to include all of the limitations of the base claim and any intervening claims. Claim 1 has been rewritten to include the limitations of claim 6 with the exception of the limitation of intermediate claim 5. It is submitted that claim 1 as currently presented is patentable over the cited references.

Claims 12-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 12 has been amended accordingly.

Claims 2-4, 6, 11 and 22 are requested to be cancelled. Claims 19 and 20 have been previously cancelled.

Claims 1, 5, 7, 8, 12 and 21 are currently being amended.

Claims 23 and 24 are being added.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1, 5, 7, 8-10, 12-18, 21 and 23-24 are now pending in this application.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

Date 3/14/06

By 

FOLEY & LARDNER LLP
Customer Number: 26371
Telephone: (414) 297-5772
Facsimile: (414) 297-4900

Keith D. Lindenbaum
Attorney for Applicant
Registration No. 40,365